



17 JUN 1985

MEMORANDUM FOR: Chief, Legislative Division/OLL

FROM:

Director of Security

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SUBJECT: DoD Draft Report on H.R. 1082

REFERENCE: Memo from C/Leg/OLL (OLL 85-1552/1)
dtd 28 May 85, Same Subject

Office of Security comments on the DoD draft report are:

Title II

DoD raises a concern that the requirement for the Government to advise the court of the names of potential government witnesses, might needlessly identify its employees or agents. This concern appears to be unfounded because the Classified Information Procedures Act would still apply, and it also requires that potential government witnesses be identified. Fortunately, it has provisions to prevent the public dissemination of classified information (including the identities of potential government witnesses under cover.)

Title IV

DoD supports this Title, but suggests that consideration be given to broadening the definition to cover other than officers or employees of the United States. This is in agreement with previously provided Office of Security comments on the bill itself. As an added comment, it is suggested that Title IV, Section 1924, subsection (b), is inadequate to guard against fabricated and bad faith defenses. It is suggested that it be amended to make such a defense affirmative, therefore, creating a rebuttable presumption that the defendant could not have reasonably believed that he had lawful authority to make such disclosures. This would impose a burden of proof on the part

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of the defendant to rebut this presumption through the presentation of evidence, rather than to simply elicit testimony that might suggest he could have believed he had authority to disclose the information.



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✓cc: EO/DDA